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LAURENCE E. GOLD
 Of Counsel

March 21, 2008

By Fax and Mail

Thomasenia P. Duncan
 General Counsel
 Federal Election Commission
 999 E Street, NW
 Washington, DC 20463

Re: **MUR 5970**
They Work for Us, Inc.

Dear Ms. Duncan:

I am writing on behalf of respondent They Work For Us, Inc. ("TWFU") to respond to the complaint ("Complaint") filed with the Commission by Lori Sherwood on January 29, 2008. TWFU respectfully submits that the Commission should find no reason to believe that TWFU violated the Act.

At the outset, we would point out that this complaint was an election ploy by Rep. Albert Wynn two weeks before the February 12, 2008 primary election in the Fourth Congressional District of Maryland ("MD CD-4"), in which he was opposed by candidate Donna Edwards. Although the complaint does not say so, Ms. Sherwood was Rep. Wynn's campaign manager and, the day that it was filed, Rep. Wynn initiated a conference call with reporters asserting responsibility for the complaint and claiming that there was "a vast, dare I say, left-wing conspiracy designed to circumvent the campaign finance laws." Rosalind Helderman, "Wynn Files Campaign Complaint," *The Washington Post*, pg. B6, January 30, 2008. Attachment A. Rep. Wynn's campaign website also features a newspaper article about the Complaint. Attachment B. As with many complaints filed with the Commission, the Complaint evidently achieved an immediate political goal.

Now, however, the Complaint must be considered on its merits. Its gravamen is that "[b]ased on [Ms. Sherwood's] examination of various records and documents [Ms. Sherwood] believe[s] the Donna Edwards for Congress Committee ('Edwards Campaign') has received substantial assistance by way of unreported, in-kind contributions from organizations who [sic] profess to have operated independently of the Edwards Campaign." Complaint, pg. 1. The Complaint then purports to support that contention with various assertions and documents. The Complaint does not cite any specific provision of the Federal Election Campaign Act ("the Act")

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or the Commission's regulations that TWFU -- or, for that matter, any other entity or individual -- allegedly violated. But it appears from the language in the Complaint that Ms. Sherwood alleges that in-kind contributions resulted from coordination between the Edwards campaign and various entities of the latter's public communications, allegations that implicate 2 U.S.C. § 441a(a)(7)(B) and (C) and 11 C.F.R. §§ 109.21 and 109.22.

Although the Complaint makes numerous general conclusory allegations of "coordination" and "collaboration," nowhere does it actually assert any fact or attach any document that indicates that TWFU (or any other named entity or individual) or the Edwards campaign actually *did* anything that constitutes coordination of any public communication or other activity undertaken by TWFU (or anyone), within the scope of the Act or the Commission's regulations. Thus, with respect to TWFU, the Complaint baldly asserts that TWFU "has become a conduit for campaign contributions to the Edwards Campaign and a vehicle to openly engage in campaign activities designed, intended and directed to oppose her opponent Albert Wynn," Complaint ¶ 12, and that "[a]s Board Members of THEY WORK FOR US Donna Edwards and Anna Burger have effectively coordinated efforts of THEY WORK FOR US in the purchase of radio and television access for the express purpose of promoting the candidacy of Donna Edwards." Complaint ¶ 14.

Not only are these allegations unsupported by any actual facts or documents, they are also simply false. The attached Declaration ("Decl.") of Steven Rosenthal, TWFU's President, details the sequence of events concerning Ms. Edwards' involvement with TWFU and specifically and completely rebuts any possible allegation of coordination between TWFU and the Edwards campaign.

As Mr. Rosenthal relates, TWFU is a District of Columbia non-profit corporation and a tax-exempt social welfare organization under § 501(c)(4) of the Internal Revenue Code. Its primary purpose is to promote national public policies and legislation that reflect a progressive populist agenda on economics and related issues. TWFU pursues this goal in part by promoting public awareness and discussion of the voting and other official conduct of Members of Congress. Decl. ¶ 2. The TWFU Board is comprised of five Directors, including Mr. Rosenthal. Decl. ¶ 3.

Ms. Edwards also served as a TWFU Director from December 8, 2006 to August 6, 2007, when she took a leave of absence from that position. Decl. ¶ 3 and Exhibit 1. That leave of absence remains in effect today. Decl. ¶ 3. Ms. Edwards' participation in TWFU was very limited. She participated in TWFU Board meetings on December 8, 2006 and February 1 and March 22, 2007, and in a meeting of TWFU personnel and allied individuals on February 20, 2007. Since March 22, 2007 -- exactly one year ago -- Ms. Edwards has not participated in any TWFU Board meeting or other TWFU meeting. Decl. ¶ 4.

In late April 2007, Mr. Rosenthal learned that Ms. Edwards intended to become a candidate in the February 2008 Democratic Party primary in MD CD-4 opposing Rep. Wynn. Shortly afterward, Mr. Rosenthal had a telephone conversation with Ms. Edwards during which they agreed that Ms. Edwards would recuse herself from any TWFU Board discussions and other TWFU discussions and activities that pertained in any manner to Rep. Wynn or MD CD-4. Mr.

Rosenthal and Ms. Edwards mutually acknowledged that this recusal was the most prudent approach in order to ensure that TWFU would not undertake any activities that could be deemed to be coordinated with Ms. Edwards or her campaign committee under the applicable Commission coordination regulations. Decl. ¶ 5.

Shortly thereafter, on May 1, Mr. Rosenthal and Ms. Edwards had their only meeting about the substance of her candidacy, and they discussed only what fundraising and other political services providers Ms. Edwards might consider retaining for her campaign. Mr. Rosenthal was familiar with the political services industry from his more than 20 years of experience in political and campaign positions for labor, political and political consulting organizations. Mr. Rosenthal and Ms. Edwards did not discuss any other plans, strategies, activities or needs of Ms. Edwards' campaign, nor did they discuss TWFU. Decl. ¶ 6. At the next TWFU Board meeting, on May 21, in which Ms. Edwards did not participate, Mr. Rosenthal informed the TWFU Board about Ms. Edwards' candidacy and stated that she had recused herself from any TWFU discussions concerning Rep. Wynn or MD CD-4. Decl. ¶ 7.

On July 27, Mr. Rosenthal met briefly with Ms. Edwards in order to suggest that, in light of the requirements of her campaign and the mutual interest of her campaign and TWFU to avoid even the appearance of coordination, she take a leave of absence from the TWFU Board. Ms. Edwards agreed to do so, and followed up with a letter to that effect on August 6. Decl. ¶ 8 and Exhibit 1.

Since July 27, Ms. Edwards has had no involvement whatsoever in TWFU, and Mr. Rosenthal believes the same is true for the preceding period since the March 22 TWFU Board meeting. Indeed, TWFU has been scrupulous about avoiding any coordination with the Edwards campaign. From May 1 to the February 12, 2008 MD CD-4 primary election, Mr. Rosenthal did not have any conversation or other communication with Ms. Edwards or any representative of her campaign concerning either her campaign, Mr. Wynn or MD CD-4. Nor since Mr. Rosenthal learned of Ms. Edwards' candidacy in late April did he ever either receive any request or suggestion from Ms. Edwards or any representative of her campaign concerning any TWFU public communication or other TWFU activity of any kind pertaining to her campaign, Rep. Wynn or MD CD-4; make any suggestion concerning such TWFU conduct to Ms. Edwards or any representative of her campaign; receive any assent from Ms. Edwards or any representative of her campaign concerning any such TWFU conduct; inform Ms. Edwards or her campaign of any such TWFU conduct; or receive any non-public information from Ms. Edwards or any representative of her campaign about any aspect of her campaign (other than, on May 1, the campaign's need to hire political services providers, if that information in fact was not then public). Decl. ¶ 9. Likewise, since Mr. Rosenthal learned of Ms. Edwards' candidacy last April, no other person who was either employed or retained by or otherwise acting on behalf of TWFU had any such contacts with Ms. Edwards or any representative of her campaign as far as TWFU records reflect or Mr. Rosenthal or TWFU staff can recall or are aware. Decl. ¶ 9. Nor has TWFU contributed otherwise to the Edwards campaign: it has provided no money, goods, services or any other thing of value. Decl. ¶ 10.

In sum, then contrary to the unsupported allegation of the complaint, TWFU has made neither monetary nor "in-kind contributions," "unreported" or otherwise, to the Edwards

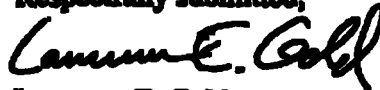
campaign. Rather, both TWFU and the Edwards campaign took deliberate steps to ensure that regardless of what TWFU or the Edwards campaign did, they would act entirely independently of the other.¹ Indeed, the Complaint asserts but does not provide supportive specific facts that TWFU even acted *with other organizations*, let alone with the Edwards campaign; and, of course, coordination among non-candidate, non-party entities is not even regulated by FECA. Accordingly, such "facts" as are alleged simply fail to "describe a violation of a statute or a regulation over which the Commission has jurisdiction," 11 C.F.R. § 111.4(d)(3), with respect to TWFU.

"The Commission may find 'reason to believe' only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the FECA"; "mere speculation ... will not be accepted as true"; and, "purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of FECA has occurred." MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee), Statement of Reasons 1, 2, 3 (Dec. 21, 2000). *See also* MUR 5141 (James P. Moran, Jr.), Statement of Reasons 2 (March 11, 2002).

Here the Complaint alleges no specific facts to demonstrate that TWFU satisfied the conduct standards of 11 C.F.R. § 109.21, or that TWFU made any other in-kind or other contribution to the Edwards campaign, and Mr. Rosenthal's declaration directly refutes the complaint's speculative claims that such coordination occurred. Particularly in cases involving coordination allegations, which, if pursued to investigation, could involve intrusive discovery into core First Amendment associational activity, *see generally* *AFL-CIO v. Federal Election Commission*, 333 F.3d 168, 170 (D.C. Cir. 2003), the Commission should find no reason-to-believe under these circumstances. *See generally* MURs 5584, 5585 (Unknown Respondents and ITC Research), First General Counsel's Report 11-12 (Jan. 26, 2006).

Accordingly, the Commission should find no reason to believe that TWFU has violated the Act or the Commission's regulations.

Respectfully submitted,



Laurence E. Gold
Counsel for They Work For Us, Inc.

cc: Steven Rosenthal
They Work For Us, Inc.

¹ The Complaint does not clearly allege that Arca Foundation, Ms. Edwards' previous employer, ever provided anything of value to TWFU, which the Complaint alleges occurred as an aspect of the Edwards campaign's alleged coordination with other entities. Complaint ¶¶ 1-6, 18-20, 32 and 33. Regardless, in fact TWFU has never requested or received any awards, donations, funds or other thing of value from the Arca Foundation. Decl. ¶ 11.

washingtonpost.com

Wynn Files Campaign Complaint

Incumbent Accuses Edwards of Violating Finance Laws

By Rosalind S. Helderman
Washington Post Staff Writer
Wednesday, January 30, 2008; B06

The campaign of U.S. Rep. Albert R. Wynn (D-Md.) filed a complaint yesterday with the Federal Election Commission, alleging that his leading primary opponent has illegally coordinated her campaign efforts with independent organizations that support her — charges that she immediately rejected as last-minute electioneering by an embattled incumbent.

In unusually strong language, Wynn accuses Prince George's County lawyer Donna F. Edwards of colluding with a small network of people to affect the outcome of the Feb. 12 election, a closely fought match in Maryland's 4th Congressional District that has received national attention.

"There seems to be a vast, dare I say, left-wing conspiracy designed to circumvent campaign finance laws," he said in a conference call with reporters. "I think the main thing is, the public needs to know this is not a person with a halo over her head, as she has tried to portray."

Edwards, who came within three percentage points of defeating the eight-term incumbent in 2006, has the support of progressive organizations that have targeted Wynn because they think he too often votes with Republicans and accepts contributions from corporate interests.

In a statement, Edwards called the complaint "a desperate 11th hour attempt by the Congressman to deflect from the fact that groups representing the core of the Democratic party and the issues it stands for — worker's rights, affordable housing, protecting women's right to choose, the environment — have decided that they want to fire him and are supporting me because they know I stand with them and always have."

According to campaign finance laws, candidates for federal office cannot coordinate their efforts with independent groups that favor them without reporting the groups' efforts as in-kind contributions, which are limited. Edwards's effort has been bolstered by organizations that have started independent campaigns to send mail, buy advertisements and call voters.

Wynn's complaint, filed by campaign manager Lori Sherwood, contains 34 points and 126 pages of

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Attachment A

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documentation. Among his allegations are that Edwards is being supported by two groups on whose board of directors she has served.

Edwards is a member of the board of the League of Conservation Voters, an environmental group that has been sending mail and making calls in support of her. She was also a founding director of They Work For Us, a nonprofit group organized last year to target Democrats whom the group thinks has strayed from the party's core values. They Work For Us recently bought radio ads attacking Wynn.

"You're seeing the same people, the cross-pollination of boards of directors, the same actors. We think that's collusion," Wynn said. "It doesn't take a lot to connect those dots."

Leaders of both groups said that Edwards took leaves of absences to run for office and has had no role in shaping their involvement in the race.

"This complaint is a baseless and inaccurate smoke screen to take attention away from Rep. Wynn's record of taking hundreds of thousands of dollars from polluting energy companies and voting for President Bush's energy bill," said Gene Karpinski, president of the League of Conservation Voters.

Steve Rosenthal, president of They Work for Us, said Edwards took a leave from his group Aug. 7 and has had no role since then. He called the complaint "utterly ridiculous."

Until taking a leave of absence to campaign, Edwards served as executive director of the Arca Foundation, a Washington nonprofit organization that provides grants to progressive causes. Wynn also says that board members, employees and political action committees associated with groups that have received grants from Arca have endorsed and funded Edwards's effort.

It is not the first time that Wynn has raised the issue of Arca grants, and Edwards has repeatedly said there is nothing improper about receiving support from like-minded people with whom she has worked.

The Wynn complaint also shows that one independent group that has distributed literature for Edwards shares a New Orleans address with other groups that back her. During her 2006 effort, Edwards's campaign paid a Baltimore company for get-out-the-vote work that has ties to the address.

The complaint is an attempt by Wynn to counter an effort by Edwards to paint him as beholden to corporate interests. It was filed just before a new round of finance reports are to be made public.

In the conference call, Wynn said he decided to file the complaint now, knowing that the FEC probably won't act on it until after the primary, to show voters some sources of Edwards's funding.

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Wynn says Edwards violated campaign rules PDF | Print | E-mail

ANAPOLIS — U.S. Rep. Albert R. Wynn said a formal complaint on Tuesday with the Federal Election Commission alleging his chief of staff skirted campaign finance laws by using her position with a nonprofit foundation to funnel money to her campaign account.

"It is vital that the public understand who and how the Edwards campaign is being financed," Wynn said in a conference call with reporters on Tuesday. "It's not coming from people in the district. It's coming from people in New Orleans."

The 104-page complaint, filed by Wynn campaign manager Layl Sherwood, accuses the Edwards campaign of receiving financial assistance from groups that also is alleged with an executive director of the Area Foundation, a nonprofit social equity and justice organization.

Area awarded grants to the League of Conservation Voters, which then funneled money back to the Edwards campaign, covering campaign constitution bills and other legal expenses. The complaint alleges. Edwards also sits on the LCV's Board of Directors, which endorsed for secretary in July, despite Wynn's high grade on the group's congressional record.

"The main thing the public needs to know is this is not a person that has a hole over her head, which she is trying to portray," said Wynn (D-Conn. 4) of Marshfield.

For the Full Article go to:

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Wynn for Congress Committee
P.O. Box 8122
Capitol Heights, MD 20741
Phone: 202.324.6264
wynnforcongress@pwn.com

Attachment B



You missed the chance to enter The Gazette Monday Challenge, but it's not too late to sign up for the Montgomery 1000 Pound Challenge and win prizes.

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Tuesday, Apr. 22, 2008

Wynn says Edwards violated campaign rules

Foundation she leads funneled money into campaign, lawmakers allege
Byron King and David Williams | Staff Writers
MONTGOMERY, Md. (AP) —

ANNAPOLIS — U.S. Rep. Albert R. Wynn filed a formal complaint on Tuesday with the Federal Election Commission alleging his chief rival skirted campaign finance laws by using her position with a nonprofit foundation to funnel money to her campaign account.

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"It is vital that the public understands who and how the Edwards campaign is being financed," Wynn said in a conference call with reporters on Tuesday. "It's not coming from people in the district. It's coming from people in New Orleans."

The 134-page complaint, filed by Wynn campaign manager Lori Sherwood, accuses the Edwards campaign of receiving financial assistance from groups that she is signed with as executive director of the Aron Foundation, a nonprofit social equity and justice organization.

Aron awarded grants to the League of Conservation Voters, which then funneled money back to the Edwards campaign, averting campaign contribution limits and violating ethical boundaries, the complaint alleges. Edwards also sits on the LCV's Board of Directors, which endorsed her candidacy in July, despite Wynn's high grade on the group's congressional scorecard.

"The main thing the public needs to know is this is not a person that has a hole over her head, which she is trying to portray," said Wynn (D-Dist. 4) of Mitchellville.

Edwards, who came within 3,000 votes of unseating Wynn in 2006, has criticized the eight-term incumbent of being too conservative for his district. She has also attacked Wynn for receiving more than half of his money from national corporations and political action committees.

"This is a desperate 11th hour attempt by the Congressman to deflect from the fact that groups representing the core of the Democratic party and the issues it stands for ID worker's rights, affordable housing, protecting women's right to choose, the environment - have decided that they want to fire him and are supporting me because they know I stand with them and always have," Edwards said in a statement released by her campaign.

The complaint rebuts an exchange the two rivals had at a Nov. 29 debate, where Wynn accused Edwards of winning her endorsements through her foundation work.

"Maybe they stand with her because she gives them money," he said at the time.

Edwards shot back that the groups were longtime allies, but refused claims that they were bought. "They stand with me because I share their values," she said.

The complaint is the latest volley in the bare-knuckle feud between the two candidates that has included dueling endorsements and accusations of improper influence from donors.

Wynn's campaign attorney, Bruce L. Marcus, acknowledged that the complaint will not likely be reviewed before the Feb. 12 primary, but it was important for voters to know the truth.

"That is one of those things that really requires public scrutiny to be drawn to it," Marcus said.

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The complaint also raises several other questionable activities alleging Edwards has improperly used her influence with

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WEEKEND

Also to secure national allies and donations. Sherwood further contends that 1199 SEIU Federal PAC, a national labor group, did not properly identify itself as supporting Edwards in several campaign advertisements it paid for and that the head of the group's political operation co-founded a Washington-based nonprofit entity with Edwards.

Suey Mink, spokeswoman for SEIU Local 1199, said her group has encouraged members and other unions to support Edwards, but denied any election law violations.

"We are working to get her elected as we can under the FEC guidelines," Mink said, adding that a dozen members for the union, which represents hospital workers in Prince George's County, have taken leave and will volunteer for Edwards leading up to Feb. 12.

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**BEFORE THE
FEDERAL ELECTION COMMISSION**

MATTER UNDER REVIEW S970

DECLARATION OF STEVEN ROSENTHAL

1. I am the President of They Work For Us, Inc. ("TWFU") and a member of its Board of Directors ("the TWFU Board"). I have held these positions since December 8, 2006, the date of the first organizational meeting of the TWFU Board. As President, I have overseen the day-to-day operations of TWFU since that date.

2. TWFU is a District of Columbia non-profit corporation and a tax-exempt social welfare organization under § 501(c)(4) of the Internal Revenue Code. Its primary purpose is to promote national public policies and legislation that reflect a progressive populist agenda on economics and related issues. TWFU pursues this goal in part by promoting public awareness and discussion of the voting and other official conduct of Members of Congress.

3. The TWFU Board is comprised of five Directors, including myself. Donna Edwards also served as a Director from December 8, 2006 to August 6, 2007, when she took a leave of absence from that position. See Exhibit 1. That leave of absence remains in effect today.

4. Ms. Edwards participated in TWFU Board meetings on December 8, 2006 and February 1 and March 22, 2007, and she participated in a meeting of TWFU personnel and allied individuals on February 20, 2007. Ms. Edwards has not participated in subsequent TWFU Board or other TWFU meetings.

5. In late April, I learned that Ms. Edwards intended to become a candidate in the February 12, 2008 Democratic Party primary in the Fourth Congressional District of Maryland ("MD CD-4") opposing incumbent Rep. Albert Wynn. Shortly afterward I had a telephone conversation with Ms. Edwards during which we agreed that Ms. Edwards would recuse herself from any TWFU Board discussions and other TWFU discussions and activities that pertained in any manner to Rep. Wynn or MD CD-4. Ms. Edwards and I mutually acknowledged that this recusal was the most prudent approach in order to prevent TWFU from undertaking any activities that could be deemed to be coordinated with Ms. Edwards or her campaign committee under the applicable Federal Election Commission coordination regulations.

6. On May 1 I met with Ms. Edwards, her campaign manager and TWFU's Executive Director. During this meeting we discussed what fundraising and other political services providers Ms. Edwards might consider retaining for her campaign. I was familiar with the political services industry from my more than 20 years of experience in political and campaign positions for labor, political and political consulting organizations. We did not discuss any other plans, strategies, activities or needs of Ms. Edwards' campaign, nor did we discuss TWFU.

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7. The next TWFU Board meeting occurred on May 21. Ms. Edwards did not participate in this meeting. At that meeting I informed the Board about Ms. Edwards' candidacy and stated that she had recused herself from any TWFU discussions concerning Rep. Wynn or MD CD-4. This is reflected in the minutes of that meeting that were subsequently prepared by TWFU's then-Executive Director: "Steve Rosenthal noted that Donna Edwards is running in the MD04 Democratic primary against Rep. Al Wynn and while remaining on the TWFU Board, she has agreed to recuse herself from all discussion pertaining to Rep. Wynn." These minutes do not otherwise refer to either Ms. Edwards, Mr. Wynn or MD CD-04. Although the minutes are unofficial because, it appears, they were not presented at any subsequent TWFU Board meeting for approval, they do accurately reflect the May 21 TWFU Board meeting.

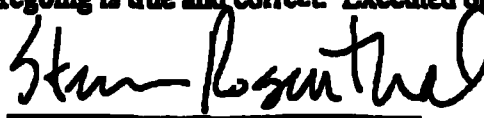
8. On July 27 I met briefly with Ms. Edwards in order to suggest that, in light of the requirements of her campaign and the mutual interest of her campaign and TWFU to avoid even the appearance of coordination, she take a leave of absence from the TWFU Board. She agreed to do so, and sent me the attached letter to that effect on August 6.

9. Since July 27, Ms. Edwards has had no involvement whatsoever in TWFU. I believe the same is true for the preceding period since the March 22 TWFU Board meeting. And, from my May 1 meeting with Ms. Edwards to the February 12, 2008 MD CD-4 primary election, I did not have any conversation or other communication with Ms. Edwards or any representative of Ms. Edwards' campaign concerning her campaign, Mr. Wynn or MD CD-4. Nor since I learned of Ms. Edwards' candidacy in late April did I ever either receive any request or suggestion from Ms. Edwards or any representative of her campaign concerning any TWFU public communication or other TWFU activity of any kind pertaining to her campaign, Rep. Wynn or MD CD-4; make any suggestion concerning such TWFU conduct to Ms. Edwards or any representative of her campaign; receive any assent from Ms. Edwards or any representative of her campaign concerning any such TWFU conduct; inform Ms. Edwards or her campaign of any such TWFU conduct; or receive any non-public information from Ms. Edwards or any representative of her campaign about any aspect of her campaign (other than, on May 1, the campaign's need to hire political services providers, if that information in fact was not then public). Likewise, since I learned of Ms. Edwards' candidacy no other person who was either employed or retained by or otherwise acting on behalf of TWFU had any such contacts with Ms. Edwards or any representative of her campaign as far as TWFU records reflect or TWFU staff or I can recall or are aware.

10. At no time did TWFU ever make a monetary contribution to the Edwards campaign or provide any goods, services or any other thing of value to the Edwards campaign.

11. TWFU has never requested or received any awards, donations, funds or any other thing of value from the Arca Foundation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 21, 2008.


Steven Rosenthal


August 6, 2007

Steve Rosenthal, Chair
They Work For Us
888 16th Street, NW
Suite 630
Washington, DC 20006

Dear Steve,

I'm writing to let you know formally that I will be taking a leave of absence from the Board of They Work for Us, effective immediately. I have truly enjoyed even this limited time to help initiate and think through the programs and plans for educating voters and holding Congress accountable to the concerns of working people. I wish you continued success in the coming years. There has never been a more important moment for accountability.

Warmest regards,


Donna F. Edwards

Rosenthal Declaration, Exhibit 1

TOTAL P.13

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